

JUN 02 2009

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALSJUDICIAL COUNCIL  
OF THE NINTH CIRCUIT

IN RE COMPLAINT OF  JUDICIAL MISCONDUCT
---

No. 08-90129

**ORDER****KOZINSKI**, Chief Judge:

A misconduct complaint and a supplement have been filed against a district judge. Complainant, a pro se litigant, filed a civil case in district court. The subject judge was assigned to the matter.

Complainant alleges that the judge improperly ordered him to pay the filing fee or to submit an in forma pauperis application instead of granting his request to pay the filing fee in monthly installments. This charge relates directly to the merits of the judge's ruling and must therefore be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B). A misconduct complaint is not a proper vehicle for challenging the merits of a judge's rulings. See In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982).

Complainant also alleges that the judge ignored his motion for service of the complaint. But the docket reveals that the judge ruled on the motion after this misconduct complaint was filed, and without extraordinary delay. Intervening

events make action on this charge unnecessary. See 28 U.S.C. § 352(b)(2).

Complainant's allegations against the clerk of court are dismissed because this misconduct complaint procedure applies only to federal judges, not court staff.

See Judicial-Conduct Rule 4.

Complainant's requests that the district court be ordered to accept his filing fee in monthly installments and to serve his complaint are not cognizable in this misconduct proceeding. See Judicial-Conduct Rule 3(h).

**DISMISSED.**